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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

JOINT DECISION POINT LIST V  
(UNE ISSUES)

*WorldCom, Cox, AT&T ads. Verizon*  
(Docket Nos. 00-218, 00-249, and 00-251)

ISSUE NUMBERING KEY:

- Category / I: (1) unique to Cox or common to (2) Cox and **WorldCom**, (3) Cox and *AT&T*, or (4) all Petitioners  
Category / II: common to **WorldCom** and *AT&T* (pricing/costing)  
Category / III: common to **WorldCom** and *AT&T* (non-pricing/non-cost)  
Category / IV: unique to WorldCom  
Category / V: unique to AT&T  
Category / VI: Verizon supplemental issues with WorldCom  
Category / VII: Verizon supplement issues with AT&T

KEY WHERE DISTINCTION AMONG PETITIONERS IS NECESSARY:

**WorldCom** (bold)

Cox (underline text)

*AT&T* (italic)

Issue No.	Statement of Issue	Petitioners' Proposed Contract Language	Petitioners' Rationale	Verizon's Proposed Contract Language	Verizon Rationale
UNE Issues					
III-6	Should the Interconnection Agreement include provisions specifying that 1) Verizon shall offer each Network Element individually or as Technically Feasible combinations of network elements, including the combination of all network elements, also known as Network Element Platform; 2) Verizon shall not separate Network Elements that are already combined on Verizon's network unless requested by MCI and that	Attachment III, Section 2.4 and 2.4.1  2.4 Except as provided in Section 2.4.1 below, Verizon shall provide each Network Element individually or in combination with any other Network Element or Network Elements. This includes, but is not limited to, the Combination of all Network Elements, also known as Network Element Platform and Loop/Transport combinations.	WorldCom has proposed language to reflect Verizon's obligation to provide combinations of unbundled network elements.  WorldCom needs access to Verizon's unbundled network elements, and combinations of elements, in order to provide ubiquitous service in Virginia. This access is consistent with the UNE Remand Order's impairment analyses in which the FCC found	4. Applicable Law  4.1 The construction, interpretation and performance of this Agreement shall be governed by (a) the laws of the United States of America and (b) the laws of the State [Commonwealth] of [STATE], without regard to its conflicts of laws rules. All disputes relating to this Agreement shall be resolved through the application of such	Section 251(c)(3) requires Verizon to provide combinations of UNEs "in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service." As to the current legal requirement that Verizon combine UNEs, there is no dispute that Verizon complies with the Commission's Rule 315 as now in effect by providing UNEs to the Petitioners so that they may combine them for service to their customers, as

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	<p>services provided through combinations of Network Elements or UNE-P will not be disconnected, interrupted, or otherwise modified in order for customers to migrate to MCI; 3) Verizon's charge to MCI for any combination may not exceed the TELRIC price for the sum of Network Elements that comprise the combination; and 4) At MCI's request and where Technically Feasible, Verizon shall provide Combinations of Network Elements whether or not those Network Elements are currently combined in Verizon's network.</p> <p><i>Under the FCC's Rules as currently in effect, must Verizon provide to AT&amp;T new combinations of UNEs that Verizon ordinarily combines for itself, and under what rates terms and conditions must it provide them?</i></p>	<p>Verizon shall not separate network elements that are already combined on Verizon's network unless requested by MCI. Verizon's charge to MCI for any Combination of elements that are already combined may not exceed the TELRIC price for the sum of network elements that comprise the Combination. At MCI's request, except as noted below, Verizon shall provide Combinations of Network Elements ordinarily combined in its network, whether or not those Network Elements are currently combined in Verizon's network. Verizon may impose cost-based charges as specified in the pricing provisions of this Agreement for any work reasonably undertaken to combine Network Elements at MCI's request that were not previously provided.</p> <p>2.4.1 Notwithstanding Section 2.4 above, Verizon shall not be required to provide Network Elements in novel combinations, that is, in configurations that are not present somewhere in Verizon's network; provided further that in the event a court of competent jurisdiction declares lawful the FCC's Rules 51.315(c)-(f), or the FCC promulgates some analogous rule(s), Verizon agrees to provide such novel combinations in accordance with the terms of that</p>	<p>carriers to be impaired without access to unbundled loops, transport, and (in all but a very few exceptional situations) switching. Verizon's obligations regarding the provision of access to unbundled elements and combinations of elements must be set forth clearly in the interconnection agreement so as to minimize litigation in the future. (Goldfarb, Buzacott, Lathrop Direct, 7/31, at 6-7).</p> <p>Section 251(C)(3) of the Act requires Verizon to provide UNEs for the provision of telecommunications services. The Act and FCC regulations also require Verizon to provide combinations of UNEs (51.315(a), (b)). The combined effect is to entitle requesting carriers to combinations of UNEs (1) where the elements are already combined, such as in the case of existing dial-tone, and (2) where the combinations are "new" (in the sense that they do not currently exist) but Verizon ordinarily combines such elements in its network, such as a second line for a customer. (Goldfarb, Buzacott, Lathrop, Direct, 7/31, at 7).</p> <p>There seems to be no dispute with Verizon that specific elements that are currently actually combined must not be uncombined. There is a disagreement as to whether</p>	<p>laws.</p> <p>4.2 Each Party shall remain in compliance with Applicable Law in the course of performing this Agreement.</p> <p>4.3 Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.</p> <p>4.4 Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects, the notifying Party's ability to perform its obligations under this Agreement.</p> <p>4.5 If any provision of this Agreement shall be invalid or unenforceable under Applicable Law, such invalidity or unenforceability shall not invalidate or render unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party</p>	<p>well as by not separating combinations of UNEs already combined. Former Commission Rules 315(c)-(f) imposed an obligation on Verizon to provide new combinations of UNEs upon request. Those rules have been vacated by the Eighth Circuit in <i>Iowa Utilities I</i> and <i>Iowa Utilities II</i>. WorldCom misstates the law when it concludes that Verizon must make new combinations available to it and AT&amp;T simply declares the decisions of the Eighth Circuit to be wrong and requests the Commission to ignore those rulings. The Eighth Circuit's ruling in <i>Iowa Utilities II</i> has been appealed to the United States Supreme Court and certiorari has been granted. The Commission must now await the decision of the Supreme Court, which will decide if Verizon can be ordered to provide new combinations of UNEs. The Commission has determined in the July 10, 2001 Status Conference that it would await the Supreme Court's holding before re-visiting the Eighth Circuit's vacating of Rule 315(c)-(f). Finally, WorldCom would require that Verizon not charge for a combination in excess of the TELRIC price for the sum of network elements that comprised the combination. Verizon proposed in its July 2, 2001 filing in this proceeding a non-recurring charge that recovers the charge of manually handling platform orders that fall out of Verizon's OSS systems</p>

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		<p>rule.</p> <p><i>Sections 11.0 – 11.14.4 set forth the contract terms and conditions necessary to support AT&amp;T's position on this issue</i></p>	<p>Verizon must provide combinations of elements that, while not currently actually combined, are the type of combinations Verizon ordinarily combines in its network. For example, these are combinations of elements that Verizon would combine for its own retail operations.</p> <p>WorldCom asserts that Verizon should provide these types of new, but ordinary, combinations, based on Rule 315(a) and Paragraphs 293 and 296 of the First Report and Order. Rule 315 (a) is a restatement of section 251 (c)(3). The Commission has stated that section 251 (c) (3) and therefore the regulation requires incumbent LECs to perform the functions necessary to combine requested elements. Local Competition Order, paragraph 293.</p> <p>The Commission has also ordered that ILECs are required to perform the functions necessary to combine those elements that are ordinarily combined in its network. Local Competition Order, paragraph 296. The effect of these rules and the Act is to require ILECs to provide combinations of UNEs where the UNEs are ordinarily combined in its network. "Incumbent LECs are required to perform the functions necessary to combine those elements that are ordinarily</p>	<p>hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.</p> <p>4.6 If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.</p> <p>4.7 Notwithstanding anything in this Agreement to the contrary, if, as a result of any legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or</p>	<p>and the cost of performing a record change. The concept of charging for these services has been proposed by WorldCom in other proceedings.</p> <p>UNE Panel--Direct Testimony on Non-Mediation Issues beginning at 3.</p> <p>UNE Panel--Rebuttal Testimony on Non-Mediation Issues beginning at 3.</p> <p>See also General Terms and Conditions Panel--Direct Testimony in Mediation Issues beginning at 45 ("applicable law" and change in law)</p> <p>General Terms and Conditions Panel--Rebuttal Testimony on Mediation Issues beginning at 21.</p>

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			<p>combined within their network, in the same manner in which they are typically combined." Paragraph 296 The language requiring ILECs 'to perform the functions necessary to combine those elements' is a clear reference to elements which are not currently combined.</p> <p>It is fully consistent with Rule 315 (a) to require Verizon to provide combinations of elements that may not be combined today to serve a particular customer but are ordinarily combined in Verizon's network.</p> <p>A clear example of this dispute occurs with respect to provisioning of second lines. Verizon ordinarily combines the elements needed to provide second lines. Therefore, the rules cited above require it to provide combinations of elements to CLECs where the elements would be used to provide a second line, even if the second line is not currently combined. (GBL Direct, 7/31, at 11).</p> <p>WorldCom does not assert that the obligation discussed herein arises under rule 315 (c-f). The thrust of those sections deals with combinations which are not ordinarily combined in the incumbents network. (GBL Direct, 7/31, at 7-9).</p>	<p>benefit, otherwise required to be provided to **CLEC hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit, and **CLEC shall reimburse Verizon for any payment previously made by Verizon to **CLEC that was not required by Applicable Law. Verizon will provide thirty (30) days prior written notice to **CLEC of any such discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply.</p> <p><u>UNE Attachment</u> 1.4 Notwithstanding any other provision of this Agreement:</p> <p>1.4.1 To the extent that Verizon is required by a change in Applicable Law to provide a UNE or Combination not offered under this Agreement to **CLEC as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be</p>	

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			<p>Verizon argues that the 8<sup>th</sup> Circuit's construction of section 251 (c)(3) makes unlawful any effort to require Verizon to perform the functions needed to provide even ordinarily combined elements. But the Supreme Court expressly rejected this position and upheld the Commission's finding that incumbents are obligated to do the combining of elements. AT&amp;T v. Iowa Utilities Board, 119 S. Ct. 721, 737 (1999) (GBL Direct, 7/31, at 9-10).</p> <p>Also, the Act's principle of non-discriminatory access to UNEs requires Verizon to provide access to UNEs for competitors wherever it would make the same elements available for its own retail operations. (Id. At 11)</p> <p>Furthermore, with respect to the provision of existing combinations of UNEs, rule 51.315(b) requires that existing arrangements shall not be separated by ILECs, except upon request. The Supreme Court held that 251(c) "does not say, or even remotely imply, that elements must be provided in discrete pieces, and never in combined form," thereby upholding the FCC's requirements that ILECs must provide currently combined elements without separating them and also requiring ILECs to perform the functions necessary to</p>	<p>available and how it will be used, and terms, conditions and prices for pre-ordering, ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Tariff of Verizon, or, in the absence of an applicable Verizon Tariff, as mutually agreed by the Parties.</p> <p>1.4.2 Verizon shall not be obligated to provide to **CLEC, and **CLEC shall not request from Verizon, access to a proprietary advanced intelligent network service.</p> <p>27.0 COMPLIANCE WITH LAWS; REGULATORY APPROVAL</p> <p>27.1 Each Party shall remain in compliance with all Applicable Law in the course of performing this Agreement. Each Party shall promptly notify the other Party in writing of any governmental action that suspends, cancels, withdraws, limits, or otherwise materially affects its ability to perform its obligations hereunder.</p> <p>27.2 Each Party shall reasonably cooperate with the other in obtaining and maintaining any required regulatory approvals for which the Party is responsible in connection with the performance of its obligations under this Agreement.</p>	

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			<p>combine requested elements under 251(c).</p> <p>The FCC's nondiscrimination rules also require that the quality of the UNE and the quality of access to the UNE shall be at least equal to that the ILEC provides to itself. 47 CFR 311(b). This requirement also applies to combinations of UNEs. Thus, services WorldCom obtains from Verizon should not be unnecessarily disconnected, interrupted or otherwise modified in order for customers to migrate to WorldCom. (GBL Direct, 7/31, at 12-13.) The interconnection agreement should reflect this obligation as proposed in WorldCom's language.</p> <p>In contrast to WorldCom's claim that Verizon must provide combinations of network elements which are ordinarily combined in its network, Verizon claims it is legally required to provide only combinations that currently exist. Verizon claims it is willing to voluntarily, but without legal obligation, provide new combinations of UNE-Platform at new and existing locations where facilities are available and currently combined, even though retail service has not been activated, provided no new construction is required and the CLEC pays any nonrecurring</p>	<p>27.3 Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification, subject to the rights of the Parties to appeal or challenge arbitrated provisions or arbitration decisions. The Parties also reserve the right to seek regulatory relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission, the FCC or any court rejects this Agreement in whole or in part, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion(s).</p> <p>27.4 In the event that any legislative, regulatory, judicial or other legal action materially affects any material term of this Agreement or the rights or obligations of either AT&amp;T or Verizon hereunder or the ability of AT&amp;T or Verizon to perform any material provision hereof, the Parties shall renegotiate in good faith such affected provisions with a view toward agreeing to acceptable new terms as may be required or permitted as a result of such legislative, regulatory, judicial or other legal action. Either Party may request such renegotiation by written notice to the other Party. The Parties shall thereafter renegotiate in good faith such mutually acceptable new or</p>	

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			<p>charges. Verizon does not include this voluntary commitment in the interconnection agreement, and thus there would be no legal force requiring Verizon to provide new UNE-P combinations. (GBL Rebuttal, 8/17, at 6-7).</p> <p>There are four significant implications of the different views of WorldCom and Verizon. First, Verizon's view that it is legally required to only provide UNE combinations for conversions or migrations places limits on its service to WorldCom that Verizon does not place on itself in serving its own customers. Thus, Verizon interprets its legal obligations in a manner that countenances discrimination. Second, Verizon limits its voluntary commitment to UNE-P and thus would deny WorldCom access to new EELs to offer local service, which WorldCom believes is contrary to 47 CFR 315(a), 51.307 and 51.311. Third, Verizon's section 1.2 would prohibit WorldCom and its customers from purchasing equivalent functionalities from Verizon and converting that service to UNEs or UNE combinations. Verizon attempts to lock-in the customer via this section. Requiring Verizon to offer these ordinarily combined network elements as UNE combinations for new EELs, second lines, or</p>	<p><i>revised terms as may be required. Unless otherwise agreed to by the Parties, if, within ninety (90) days of the receipt of the request for renegotiation, the Parties have not agreed on mutually acceptable new or revised terms, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction.</i></p> <p>27.5 <i>The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC as an integral part of Verizon's application pursuant to Section 271(d) of the Act.</i></p> <p><i>Notwithstanding anything herein to the contrary, if, as a result of any decision, order or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, it is determined that Verizon is not required to furnish any service, facility or arrangement, or to provide any benefit required to be furnished or provided to AT&amp;T hereunder, then Verizon may discontinue the provision of any such service, facility, arrangement or benefit to the extent permitted by any such decision, order or determination by providing thirty (30) days prior written notice to AT&amp;T unless a</i></p>	

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			<p>additional trunks would resolve this anticompetitive and anti-consumer situation. Fourth, Verizon's voluntary proposal provides no means for WorldCom or any regulatory agency to identify and correct any discriminatory behavior on Verizon's part. The way to prevent discrimination (for example, if Verizon were to claim no facilities are available when a customer seeks an additional line from a competitor) is to direct Verizon to provide combinations of UNEs whenever it ordinarily combines those elements in a similar fashion in its network. (GBL Rebuttal, 8/17, at 8-9)</p> <p>Verizon's claim that paragraph 480 of the UNE Remand Order (declining to interpret 47 CFR § 51.315(b) as requiring ILECs to combine UNEs that it ordinarily combines) proves there is no requirement to provide combinations of 'elements ordinarily combined in its network' is incorrect. The focus of 315(b) is to prohibit ILECs from separating elements the ILEC currently combines. The FCC's UNE Remand Order declined to address the argument that 315(b) requires ILECs to combine UNEs that are "ordinarily combined." Regardless of how the FCC interprets 315(b), WorldCom asserts that section 315(a) requires ILECs to combine</p>	<p><i>different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff or Applicable Law) for termination of such service, in which event such specified period and/or conditions shall apply.</i></p>	

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			<p>for CLECs UNEs that are ordinarily combined. (GBL Rebuttal, 8/17, at 10.)</p> <p><i>Contrary to Verizon's assertions, AT&amp;T is not asking the Commission to challenge the Eighth Circuit or to rewrite its current rules on UNE availability. Verizon VA's Rebuttal Testimony On Non-Mediation Issues – Unbundled Network Elements, Testimony of Detch, et al., at 3-5. Rather, AT&amp;T is simply asking the Commission to clarify that the "currently combine[d]" standard, as used in the Commission's current Rule 315(b), includes such UNEs as are ordinarily, commonly or regularly combined in Verizon's network, whether or not they are actually combined for the particular customer or location that AT&amp;T seeks to serve. This is no stretch of the current language, because the Commission's rule on combinations must be read as a whole, even though sub-parts (c) through (f) have been vacated. Thus, Rule 315(b) was clearly intended to encompass the entire universe of UNE combinations that were <b>not</b> covered by the vacated Rule 315(c), which applied by its own terms to UNEs that "are not ordinarily combined" in an ILEC's network. By the same token, Rule 315(b) would apply to all UNE combinations that <b>are</b> ordinarily combined.</i></p>		

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			<p><i>There are a number of sound reasons for the Commission to affirm this interpretation of its rules. First, this is a reasonable interpretation of the Commission's language and intent that a number of state commissions have adopted. The Georgia Commission has found that the proper reading of "currently combines" means network elements that are "ordinarily combined within their [BellSouth's] network, in the manner in which they are typically combined." Georgia Public Service Commission, In re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements, Docket No. 10692-U (Feb. 2, 2000) ("Georgia UNE decision"). The Tennessee and the Michigan commissions have interpreted the Commission's rules the same way.<sup>1</sup> These commissions appear to view this interpretation as consistent with the Commission's existing rules.</i></p> <p><i>Second, this interpretation is the only interpretation that serves the overarching pro-competitive objectives of the Act. The use of Verizon's network elements and combinations is essential to allow AT&amp;T to provide a broad array of telecommunications services to customers in these areas. If AT&amp;T gains reasonably nondiscriminatory use of Verizon's network elements and combinations, AT&amp;T's coverage</i></p>		

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			<p>for traditional local services (residential and business POTS) will match that of Verizon in Virginia. Without use of Verizon's network elements or combinations, AT&amp;T will remain unable –both technically and economically – to provide telecommunications services ubiquitously over the broad geographic area currently served by Verizon in Virginia. Moreover, Verizon's proposed limitation on UNE combinations effectively precludes AT&amp;T from providing new lines to existing customers and from providing services to new customers, although in both circumstances Verizon would be able to do so. The practical implication of Verizon's interpretation of applicable law is that AT&amp;T is forbidden to serve certain groups of customers via UNE combinations. Such restrictions serve to only thwart local competition in Virginia.</p> <p>Verizon's 11<sup>th</sup>-hour offer in its Direct Testimony to provide some limited combinations of the UNE-P fails to cure the deficiencies of Verizon's position. Verizon VA's Direct Testimony On Non-Mediation Issues – Unbundled Network Elements, Testimony of Detch, et al., at 4. First, Verizon does not abandon its legal view that it is not required to provide UNE combinations that are ordinarily combined, which means that it is free to withdraw its offer at any time</p>		

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			<p>without notice. <i>Indeed, Verizon has not offered any interconnection agreement language to effectuate its offer. Second, the offer is severely limited. It is limited to UNE-Ps only and excludes any other combinations, most notably EELs; VZ Third Set of Supplemental Responses to AT&amp;T DR 3-4 (August 3, 2001); the facilities must be "currently combined" even if not activated for retail service; and Verizon apparently expects to extract a glue charge for such UNE-Ps, in the form of "non-recurring charges associated with activating the facilities." Direct Testimony of Detch, et al. at 4. In short, Verizon's offer is entirely underwhelming.</i></p> <p><i>Third, even if AT&amp;T's request were to be viewed as going beyond what the Commission's existing rules provide -- which it does not -- the Commission stands in the shoes of the Virginia State Corporation Commission in this arbitration and as such, the Commission is fully empowered to resolve the issues as is the Virginia State Corporation Commission. The Commission's regulations are the floor, not the ceiling, of what a state commission may require in regard to the UNEs and UNE combinations that an ILEC should be obligated to provide, in order to foster competition in a state. The U.S. Court of Appeals for the Ninth Circuit has ruled that "network elements may be leased in discrete parts, but 'does not say, or</i></p>		

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			<p>even remotely imply, that elements must be provided only in this fashion and never in combined form.'" <i>US West Communications v. MFS Intelenet, Inc.</i>, 193 F.3d 1112, 1121 (1999) (quoting the US Supreme Court's decision in <i>AT&amp;T Corp. v. Iowa Utils. Bd.</i>, 525 U.S. 366, 119 S.Ct. 721, 737 (1999)). If the Commission finds that Virginia would be best served by requiring Verizon to provide UNEs that are currently ordinarily combined, although not necessarily combined in service to a particular customer, the Commission may so order in this arbitration. Like the Georgia, Tennessee and Michigan commissions, the Commission should rule in this arbitration that the Commission's current rules should be interpreted consistent with the pro-competitive objectives of the Act.<sup>2</sup></p> <p>ENDNOTES</p> <p>1/ "I move to define the term "currently combines" to include any and all combinations that BellSouth currently provides to itself anywhere in its network thereby rejecting Bellsouth's position that the term means already combined for a particular customer at a particular location." Tennessee Regulatory Authority, <i>Intermedia/BellSouth Arbitration Hearing</i>, Transcript at 7-8. Also, Michigan Public service Commission, <i>In the matter, on the Commission's own motion, to consider AMERITECH MICHIGAN's</i></p>		

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			<p><i>compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996, Case No. 12320, Opinion and Order (Jan. 4, 2001), at 9-10.</i></p> <p><i>2/ Verizon argues that the Commission has already ruled that it would not act to exercise the powers of the Virginia Commission in this arbitration. Direct Testimony of Detch, et al. at 5. But Verizon's own cites to the transcript belie that claim, for it shows only that the Chief of the Common Carrier Bureau is "disinclined to exercise that authority." Id. With all due deference to the Bureau, AT&amp;T is not abandoning its right to argue to the Commission that the Commission is empowered to exercise the Virginia Commission's authority, and should do so if it believes it necessary to reach a proper result on this issue.</i></p>		
III-7	<p><b>Is WorldCom entitled to order combinations of the loop and transport unbundled network elements for the provision of telecommunications services? Can restrictions be placed on the use of unbundled network elements used in the provisions of telecommunications services?</b></p> <p><i>Does Verizon have the right to impose operational requirements, in addition to the interim use restrictions on the conversion of special access to UNE</i></p>	<p><b>Attachment III, Sections 2.4 et seq.</b></p> <p><b>2.4 Except as provided in Section 2.4.1 below, Verizon shall provide each Network Element individually or in combination with any other Network Element or Network Elements. This includes, but is not limited to, the Combination of all Network Elements, also known as Network Element Platform and Loop/Transport combinations. Verizon shall not separate network elements that are already combined</b></p>	<p><b>WorldCom is impaired in its ability to provide the services it wishes to offer in Virginia by Verizon's refusal to provide unbundled access to EELs in Virginia. WorldCom has demonstrated that it is impaired without access to EELs and therefore the contract language proposed by WorldCom should be included in the Interconnection Agreement. (GBL Direct, 7/31, at 14)</b></p> <p><b>The FCC has found that "the</b></p>	<p><b>UNE Attachment</b></p> <p><b>1.1 Verizon shall provide to **CLEC, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to</b></p>	<p>The Commission issued its <i>Supplemental Order</i> on November 24, 1999 to its <i>UNE Remand Order</i>. The <i>Supplemental Order</i> temporarily constrained carriers from substituting entrance facilities in combinations of unbundled loops and dedicated interoffice transport network elements for the ILECs' special access services. In that <i>Supplemental Order</i>, the Commission allowed CLECs to convert special access services to UNE rates <u>only</u> if the CLEC provides a significant amount of local</p>

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	<p><i>combinations prescribed by the Commission, that further limit AT&amp;T's ability to connect a UNE or UNE combination to other services, such as the retail and wholesale offerings of Verizon?</i></p>	<p>on Verizon's network unless requested by MCIm. Verizon's charge to MCIm for any Combination of elements that are already combined may not exceed the TELRIC price for the sum of network elements that comprise the Combination. At MCIm's request, except as noted below, Verizon shall provide Combinations of Network Elements ordinarily combined in its network, whether or not those Network Elements are currently combined in Verizon's network. Verizon may impose cost-based charges as specified in the pricing provisions of this Agreement for any work reasonably undertaken to combine Network Elements at MCIm's request that were not previously provided.</p> <p>2.4.1 Notwithstanding Section 2.4 above, Verizon shall not be required to provide Network Elements in novel combinations, that is, in configurations that are not present somewhere in Verizon's network; provided further that in the event a court of competent jurisdiction declares lawful the FCC's Rules 51.315(c)-(f), or the FCC promulgates some analogous rule(s), Verizon agrees to provide such novel combinations in accordance with the terms of that rule.</p>	<p>failure to provide access to a network element would 'impair' the ability of a requesting carrier to provide the services it seeks to offer if, taking into consideration the availability of alternative elements outside the incumbent's network, including self-provisioning by a requesting carrier or acquiring an alternative from a third-party supplier, lack of access to that element materially diminishes a requesting carrier's ability to provide the services that it seeks to offer." UNE Remand Order, para. 51. In assessing the availability of alternatives, the FCC considers the totality of circumstances, focusing on cost, timeliness, quality, ubiquity, and other factors. (GBL Direct, 7/31, at 14).</p> <p>To determine if WorldCom is impaired by Verizon's refusal to provide unbundled access to EELs, the FCC must examine the factors which it has articulated. In doing so, the FCC must find that WorldCom is materially diminished in its ability to provide local exchange and exchange access services unless Verizon is required to provide unbundled access to EELs. (Id. At 15).</p> <p>From the perspective of a requesting carrier such as WorldCom, an EEL provides the functional equivalent of a loop. It</p>	<p><b>provide unbundled Network Elements (UNEs) and Combinations to **CLEC only to the extent required by Applicable Law and may decline to provide UNEs or Combination to **CLEC to the extent that provision of such UNEs or Combination are not required by Applicable Law.</b></p> <p><i>11.9 Conversion of Live Telephone Exchange Service to Analog 2W Loops</i></p> <p><i>The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to AT&amp;T Telephone Exchange Services provisioned over Analog 2W unbundled Local Loops ("Analog 2W Loop"s) to be provided by Verizon to AT&amp;T.</i></p> <p><i>11.9.1 Coordinated cutover charges, including but not limited to outside dispatch charges, where applicable, shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops as set forth in Exhibit A. If AT&amp;T does not request a coordinated cutover, Verizon will process AT&amp;T's order as a new installation subject to applicable standard provisioning intervals.</i></p> <p><i>11.9.2 AT&amp;T shall request Analog 2W Loops for coordinated cutover</i></p>	<p>exchange service on the facilities. The Commission was concerned that carriers providing exchange access service would be able to arbitrage access rates and harm universal service funding. The Commission issued its <i>Supplemental Order Clarification</i> on June 2, 2000, which "extended and clarified" its <i>Supplemental Order</i> and defined more specifically what "constitutes a significant amount of local usage." See <i>Supplemental Order Clarification</i> ¶ 22. As this is the current applicable law, Verizon complies with these pronouncements of the Commission.</p> <p>UNE Panel--Additional Direct Testimony on Mediation Issues beginning at 17.</p>

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		<p>2.4.2 Verizon's provision of Loop/Transport Combinations must comply with the following requirements:</p> <p>2.4.2.1 The Loop/Transport Combination must provide completed end-to-end cross connection of the channels designated by MCIm.</p> <p>2.4.2.2 The Loop/Transport Combination must provide multiplexing or concentration (at MCIm's request), format conversion, signaling conversion, and through-testing consistent with the underlying capabilities of the equipment deployed in the Verizon network.</p> <p>2.4.3 With respect to Loop/Transport Combinations, MCIm will be responsible for all channel facility assignment (CFA).</p> <p>2.4.4 Verizon may only perform maintenance on Loop/Transport Combinations at MCIm's direction.</p> <p>2.4.5 Without requiring MCIm to collocate at all or particular Verizon serving wire centers, MCIm may provide its own, or request Verizon to provide, either multiplexing/concentration or digital cross connection equipment with any Loop/Transport Combination. Types of this</p>	<p>provides an unswitched transmission path of whatever length is necessary between an end user and a WorldCom Point of Presence ("POP") or collocation arrangement. Once established, that transmission path can then be used to provide the end user with the local exchange and exchange access services described in WorldCom's tariffs. (Id. At 15).</p> <p>The only significant difference between an unbundled loop and an EEL is that the EEL includes interoffice transport mileage, while the loop terminates in the end user's serving wire center. Accordingly, insofar as a requesting carrier is impaired if denied unbundled access to loops, it is necessarily impaired if denied unbundled access to EELs except in those circumstances where that carrier has established a collocation arrangement in the end user's serving wire center and uses its own (or a third party's) interoffice transport to carry its traffic back to its POP. (Id. At 15).</p> <p>The FCC found that requesting carriers are impaired throughout the country if denied access to unbundled loops. There is no reason for the Commission in this proceeding to re-examine loop impairment. And even if the FCC were to re-examine loop</p>	<p>from Verizon by delivering to Verizon a valid Local Service Request ("LSR") including, without limitation, in accordance with the terms of Section 11.6. AT&amp;T shall designate the requested date and time for conversion on the LSR ("Scheduled Conversion Time") subject to Verizon standard provisioning intervals, as may be revised from time to time. Subject to the immediately preceding sentence, Verizon agrees to accept from AT&amp;T the Scheduled Conversion Time, provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force is not available, AT&amp;T and Verizon shall mutually agree on a New Conversion Time, as defined below. Within three (3) business days of Verizon's receipt of a valid LSR, except as otherwise required by Applicable Law, Verizon shall provide AT&amp;T the scheduled due date by which the Analog 2W Loops covered by such LSR will be converted.</p> <p>11.9.3 AT&amp;T shall provide dial tone at the AT&amp;T Collocation site prior to the Scheduled Conversion Time such that Verizon may verify dialtone as provided herein. Verizon shall verify dialtone on the loop scheduled to be</p>	

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		<p>Combination include, but are not limited to, Combinations of (i) DS1 Transport and DS0 Loops and (ii) DS3 Transport and DS1 Loops.</p> <p><i>Section 11.13 sets forth the contract terms and conditions necessary to support AT&amp;T's position on the issues.</i></p>	<p>impairment, it would inevitably find that requesting carriers are impaired without unbundled access to loops. WorldCom is only able to self provision loops to a small number of buildings in Virginia. The number is set forth in the proprietary testimony. There are material differences in cost, timeliness, quality, and ubiquity that would impair any carrier seeking to self-provision or obtain loops from third parties. (Id. At 16)</p> <p>The FCC has found that requesting carriers are impaired throughout the country if denied access to unbundled interoffice transport. There is no reason for the FCC to re-examine interoffice transport impairment. And even if the FCC were to re-examine interoffice transport impairment, it would inevitably find that requesting carriers are impaired without unbundled access to interoffice transport. According to Verizon's Petition for Pricing Flexibility, alternative transport facilities are available for no more than 49 of the 210 Verizon central offices in Virginia. Accordingly, there is no ubiquitous alternative to Verizon's interoffice transport. (Id. At 16)</p> <p>Except in the limited circumstances where WorldCom has collocation arrangements, Verizon special access services provide the only</p>	<p>migrated to AT&amp;T and shall also verify AT&amp;T dialtone from the AT&amp;T Collocation cage. If Verizon is unable to verify such dialtone, Verizon shall take appropriate steps to address the problem, including promptly notifying AT&amp;T, if required.</p> <p><b>11.9.4</b> Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New Conversion Time may not be rescheduled more than one (1) time in a business day, and any two New Conversion Times for a particular Analog 2W Loops shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.</p> <p><b>11.9.4.1</b> If the New Conversion Time is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:</p> <p>(i) If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order</p>	

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			<p>feasible, ubiquitous alternative to EELs. WorldCom has collocation arrangements in only a small number of central offices in Virginia. The number is set forth in the proprietary testimony. Those services are significantly more costly than the forward-looking cost at which EELs would be provided. Moreover, Verizon has obtained Phase II pricing flexibility for transport in the following MSAs: Washington, DC (includes Northern Virginia), Richmond, Norfolk-Virginia Beach-Portsmouth, Newport News-Hampton, Roanoke, and Lynchburg. In these MSAs, Verizon's transport special access services have been removed from price cap regulation. Verizon is free to lower or raise the price of these services at any time, which it would be most likely to do in those locations where it faces the least competition. The FCC should conclude that in the particular circumstances present in Virginia, WorldCom is impaired unless it obtains unbundled access to EELs. (Goldfarb, Lathrop, Buzacott Direct, 7/31 at 16-17).</p> <p>Contrary to Verizon's proposal, the availability of EELs should not be limited to situations which meet the restrictions set forth in the Supplemental Order Clarification. WorldCom has demonstrated that</p>	<p><i>Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be waived, upon request from AT&amp;T; and</i></p> <p>(ii) <i>If AT&amp;T requests to reschedule outside the one (1) hour time frame above, AT&amp;T shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.</i></p> <p><i>11.9.5 If AT&amp;T is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and AT&amp;T will reschedule and, upon request from AT&amp;T, Verizon will waive the Analog 2W Loop Service Order Charge for the original Scheduled Conversion Time.</i></p> <p><i>11.9.6 The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the Analog 2W Loop to AT&amp;T is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a</i></p>	

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			<p>it is impaired without access to EELs. Neither self-provisioned nor third-party loops are available as alternatives to Verizon loops in Virginia and alternative transport facilities are available for no more than 49 of the 210 Verizon central offices in Virginia. Except in the limited circumstances where WorldCom has collocation arrangements, Verizon special access services provide the only feasible, ubiquitous alternative to EELs. Verizon's rates for those services are significantly higher than the forward-looking cost to Verizon of providing the loop-transport-concentration functionality to itself or to others as EELs. Requiring WorldCom to face a different and higher cost structure than Verizon faces artificially impedes competition. Moreover, the FCC already has determined that proper impairment analysis does not take into account the availability of an ILEC service that simply mimics the functionality of a network element or elements, or ILECs would be able to avoid providing unbundled network elements simply by offering those elements as services with rates that exceed TELRIC. (GBL Rebuttal, 8/17, at 11).</p> <p>The bottom line is that WorldCom is impaired in its ability to offer local telecommunications services in</p>	<p><i>negotiated interval.</i></p> <p><i>11.9.7 Conversions involving LNP will be completed according to North American Numbering Council ("NANC") standards, via the regional Number Portability Administration Center ("NPAC").</i></p> <p><i>11.9.8 If AT&amp;T requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.</i></p> <p><i>11.9.9 After receiving notification of completion of the hot cut by Verizon, AT&amp;T will confirm operation of the loop[s]. In the event the loop[s] is not functional, AT&amp;T may submit the necessary trouble ticket[s] to initiate a request for repair.</i></p> <p><i>11.9.10 If AT&amp;T and Verizon cannot isolate and fix the problem, AT&amp;T may request that the Customer be restored to service on the Verizon network. Such restoration shall occur within a commercially reasonable time period.</i></p>	

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			<p>Virginia without access to EELs and therefore it should have unrestricted access to EELs to offer local service. Under § 51.315(a) of the FCC's rules, that must include access to combinations that are ordinarily combined in Verizon's network, even if such elements are not already combined to serve WorldCom. (GBL Rebuttal, 8/17, at 11-12).</p> <p>Verizon argues incorrectly that the fact that unrestricted access to EELs was explicitly included in the exception to the unbundled switching requirement in the <u>UNE Remand Order</u> demonstrates that the Commission did not intend Verizon to be compelled to provide new EELs in other situations.</p> <p>The FCC's impairment analysis explicitly identified EELs as a prerequisite for the switching exception because unrestricted access to EELs is a necessary condition for CLECs to be unimpaired in their ability to offer local service using their own switches. At the time of the <u>UNE Remand Order</u>, EELs provisioning was widely recognized as a serious problem and therefore despite the requirement that ILECs provide EELs, in practice that requirement could not be met. Thus, the FCC had to explicitly indicate that EELs be fully available in the relevant</p>		

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			<p>geographic area before an ILEC could be excepted from its unbundled switching obligation in that area. Including unrestricted EELS availability in the exception cannot be interpreted to mean that ILECs otherwise had no obligation to provide EELS. (GBL Rebuttal, 8/17, at 12).</p> <p><i>Rather than argue the case against the current restrictions upon converting special access services to UNE combinations under the Commission's interim rules in this arbitration, AT&amp;T addresses the operational roadblocks that have made it impossible for AT&amp;T to obtain from Verizon the special access conversions to UNEs to which AT&amp;T is entitled under the Commission's interim rules. The operational issues requiring resolution are the following:</i></p> <p><i>a. Modification to the physical configuration of the special circuit/UNE combination should only occur when requested by AT&amp;T (discussed under Sub-Issue III.7.A);</i></p> <p><i>b. Conversion of an access service to a UNE combination should not result in degradation of operational support provided for the UNE combination compared to the previous special access service configuration (discussed under Sub-</i></p>		

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			<p><i>Issue III.7.A);</i></p> <p><i>c. The process to convert access services to UNE combinations should not interject needless cost or unduly delay the desired conversion (discussed under Sub-Issue III.7.B);</i></p> <p><i>d. Verizon's failure to effectuate special access conversions to UNE combinations should not delay the effective date of the new rates for UNE combinations (discussed under Sub-Issue III.7.B); and</i></p> <p><i>e. Conversion of access services to UNE combinations should not be limited by unjust and unreasonable application of term or volume liabilities in Verizon's access service pricing plans (discussed under Sub-Issue III.7.C).</i></p> <p><i>Because Verizon has not substantively addressed or rebutted any of the issues in this set in its Direct or Rebuttal Testimony, AT&amp;T's showings are unchallenged and should be adopted by the Commission as proposed by AT&amp;T. Nevertheless, AT&amp;T will summarize its positions and advocacy in the sub-issues to follow.</i></p> <p><i>Further, Verizon's steadfast opposition to effectuating special access conversions to UNE combinations in the past, using</i></p>		

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			<p>obstacles provided to Verizon by regulatory and legal issues, should not be countenanced in the future. The Commission is currently considering the applicability of restrictions on the conversion of special access to UNE combinations. Once that decision is made by the Commission, there is no justification to permit Verizon to reap further monopoly profits by delaying implementation at the state level following that decision. To preclude extensive delays, AT&amp;T proposes language to § 11.13.1 of the interconnection agreement to eliminate any need for lengthy negotiations following Commission resolution of the applicability of use restrictions.</p>		
III-7-a	Where AT&T requests that existing services be replaced by UNEs and/or UNE Combinations, may Verizon physically disconnect, separate, alter or change in any other fashion the equipment or facilities that are used, without AT&T's consent?	Section 11 sets forth the contract terms and conditions necessary to support AT&T's position on the issues	<p>The conversion of existing special access to a combination of UNEs (for example, the EEL) should not cause the existing facilities to be disconnected or otherwise modified in any way. Existing Commission rule 51.315(b) provides that "Except upon request, an Incumbent LEC shall not separate network elements that the Incumbent LEC currently combines." The Verizon loops and transport facilities used to provide local exchange services are the very same loops and transport facilities that are used to provide exchange access services, and, in both cases, they perform the same function—transporting communications between</p>	<p>11.9 Conversion of Live Telephone Exchange Service to Analog 2W Loops</p> <p>The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to AT&amp;T Telephone Exchange Services provisioned over Analog 2W unbundled Local Loops ("Analog 2W Loop"s) to be provided by Verizon to AT&amp;T.</p> <p>11.9.1 Coordinated cutover charges, including but not limited to outside dispatch charges, where</p>	<p>AT&amp;T's position ignores reality. It can be necessary for Verizon to disconnect or alter equipment or facilities in order to complete a WorldCom request for UNEs. For example, where an end user is served over an integrated digital loop carrier ("IDLC") and WorldCom orders a UNE loop to serve that customer, Verizon will need to provide a different loop to serve that customer. Another example in which some interruption might occur is during a "hot cut" where a "live" Verizon customer is cut over to a CLEC. Thus, AT&amp;T's proposal, that services absolutely will not be disconnected, interrupted or otherwise modified in</p>

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			<p>a customer premises and a carrier's network. Only artificial pricing distinctions account for any difference between loop and transport configurations called special access compared to loop and transport configurations called a UNE combination (or EELs).</p> <p>Verizon asserts that it is frequently "necessary for Verizon to 'physically disconnect, separate, alter or change' the equipment or facility in order to complete" AT&amp;T's request. Verizon Response dated May 31, 2001, Attachment A at 78. However, all the examples identified by Verizon are either exceptionally rare occurrences or irrelevant situations. First, in the case of UNE-P, Verizon mentions a Centrex to UNE-P conversion and the need to load balance as exceptions to the general rule that no physical changes are needed. However, load balancing is a red herring for such conversions – if the frame was either balanced or unbalanced before a conversion the same balance/imbalance would exist after the conversion. Second, while AT&amp;T does not dispute that converting active retail service to UNE-L involves a physical disruption of service, whether or not a disruption is involved is completely irrelevant to access service-to-UNE-combination conversions -- Verizon does not provide a UNE combination after a hot-cut to UNE-L is</p>	<p>applicable, shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops as set forth in Exhibit A. If AT&amp;T does not request a coordinated cutover, Verizon will process AT&amp;T's order as a new installation subject to applicable standard provisioning intervals.</p> <p><b>11.9.2</b> AT&amp;T shall request Analog 2W Loops for coordinated cutover from Verizon by delivering to Verizon a valid Local Service Request ("LSR") including, without limitation, in accordance with the terms of Section 11.6. AT&amp;T shall designate the requested date and time for conversion on the LSR ("Scheduled Conversion Time") subject to Verizon standard provisioning intervals, as may be revised from time to time. Subject to the immediately preceding sentence, Verizon agrees to accept from AT&amp;T the Scheduled Conversion Time, provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force is not available, AT&amp;T and Verizon shall mutually agree on a New Conversion Time, as defined below. Within three (3) business days of Verizon's receipt of a valid LSR, except as otherwise required by Applicable Law, Verizon shall</p>	<p>order for customers to migrate to AT&amp;T, must be rejected.</p>

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			<p>performed. Third, a line sharing to line splitting conversion may involve a change in the service configuration, as Verizon asserts, but only when the data CLEC changes. Unless the data CLEC changes – something that a customer would not ordinarily opt to do with operating DSL – no disconnection of elements is required. Finally, Verizon previously asserted that the presence of IDLC might require physical disruption of the UNE-P combination. Verizon Response dated May 31, 2001, Attachment A at 78. But when AT&amp;T converts a local service that employs an IDLC loop terminating on the ILEC local switch to UNE-P, there is no need to change the loop to either copper or UDLC. Such a change is required only when the customer is hot cut to another carrier's network. As discussed before, where a hot cut occurs, Verizon would not be providing a UNE combination.</p> <p>Just as there is no need to disrupt the physical configuration of facilities in converting special access to a UNE combination, there is no requirement that the supporting operational processes be disrupted or degraded. Contrary to Verizon's position, the operational support in terms of ordering, provisioning, maintenance and repair for an EEL should be at parity with the special access that the EEL replaces. One of the UNEs established by the Commission is</p>	<p>provide AT&amp;T the scheduled due date by which the Analog 2W Loops covered by such LSR will be converted.</p> <p><b>11.9.3</b> AT&amp;T shall provide dial tone at the AT&amp;T Collocation site prior to the Scheduled Conversion Time such that Verizon may verify dialtone as provided herein. Verizon shall verify dialtone on the loop scheduled to be migrated to AT&amp;T and shall also verify AT&amp;T dialtone from the AT&amp;T Collocation cage. If Verizon is unable to verify such dialtone, Verizon shall take appropriate steps to address the problem, including promptly notifying AT&amp;T, if required.</p> <p><b>11.9.4</b> Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New Conversion Time may not be rescheduled more than one (1) time in a business day, and any two New Conversion Times for a particular Analog 2W Loops shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.</p> <p><b>11.9.4.1</b> If the New Conversion Time</p>	

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			<p>Operations Support Systems ("OSS"). The OSS UNE, just as a loop or a dedicated transport UNE, is part of a UNE combination that currently operates in an integrated manner to provide access services. The language reflected in AT&amp;T's § 11.13.5.2 is simply an explicit acknowledgement of the Commission's requirement set forth in § 51.315(b) of the Commission's Rules, that Verizon may not "disconnect" OSS UNEs employed to support wholesale/access UNEs employed to support EELs if such a "disconnection" degrades the operational support delivered for the combination, such as the EELs.</p> <p>Verizon's position that "[f]or EELs (loop transport combinations), the provisioning intervals are based upon the standard intervals associated with the individual UNEs that comprise the loop/transport arrangement," <i>id.</i>, rather than special access intervals, is predicated upon the semantic affectation of calling the supporting OSS "protocols." But changing the terms does not somehow override the unbundling obligation for OSS nor permit Verizon to "disconnect" the supporting OSS from the combination of elements. To permit Verizon to degrade operational support for converted special access would violate Verizon's parity obligations under the Act. Just as and for the same reasons that Verizon is</p>	<p>is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:</p> <p>(i) If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be waived, upon request from AT&amp;T; and</p> <p>(ii) If AT&amp;T requests to reschedule outside the one (1) hour time frame above, AT&amp;T shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.</p> <p><b>11.9.5</b> If AT&amp;T is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and AT&amp;T will reschedule and, upon request from AT&amp;T, Verizon will waive the Analog 2W Loop Service Order Charge for the</p>	

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			<p>obligated to required to support UNE-P operations at parity to its retail operations, UNE Remand Order at 431, so it is obligated to support EELs at its closest analogue, which is special access.<sup>1</sup></p> <p>In support of a claim that parity to special access is inappropriate, it seems that Verizon relies solely on a claim that special access is not a "retail analogue" because it is a wholesale service. This is not correct, because retail customers may and do purchase from the access tariffs of Verizon. In any event, it is irrelevant whether a parity measure is a "retail" or a "wholesale" measure. What matters is that it in fact provides the same functionality, and compares the performance that Verizon delivers to its CLEC customers with the performance Verizon provides to itself or its affiliates.</p> <p>ENDNOTES 1/ The Commission's own interpretation of the parity standard defeats Verizon's argument: "a number of OSS functions provided to competing carriers have an analogue associated with a BOC's retail operations and, therefore, equivalent access, as measured by those analogues, would be the standard of performance required by section 271 for those OSS functions." Ameritech Michigan 271 Order at ¶ 142</p>	<p>original Scheduled Conversion Time.</p> <p><b>11.9.6</b> The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the Analog 2W Loop to AT&amp;T is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a negotiated interval.</p> <p><b>11.9.7</b> Conversions involving LNP will be completed according to North American Numbering Council ("NANC") standards, via the regional Number Portability Administration Center ("NPAC").</p> <p><b>11.9.8</b> If AT&amp;T requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.</p> <p><b>11.9.9</b> After receiving notification of completion of the hot cut by Verizon, AT&amp;T will confirm operation of the loop[s]. In the event the loop[s] is not functional, AT&amp;T may submit the necessary trouble ticket[s] to initiate a request for repair.</p> <p><b>11.9.10</b> If AT&amp;T and Verizon cannot</p>	

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				<i>isolate and fix the problem, AT&amp;T may request that the Customer be restored to service on the Verizon network. Such restoration shall occur within a commercially reasonable time period</i>	
III-7-b	<i>Must Verizon implement an ordering process that enables AT&amp;T to place a bulk order for the conversion of services to UNEs or UNE Combinations?</i>	<i>Section 11.9 et seq., sets forth the contract terms and conditions necessary to support AT&amp;T's position on the issues.</i>	<p><i>Verizon should implement a process that enables AT&amp;T to undertake a bulk conversion of special access to UNE configurations. However, Verizon has appears to have no interest in expediting special access reconfigurations to UNE pricing, because the longer the facilities and equipment continue to be billed at special access rates instead of UNE rates the greater Verizon's unearned windfall. Despite its obligations to provide conversions, Verizon is seeking to impose an ordering process that creates prohibitive costs for service conversions and risks customer dissatisfaction, effectively eliminating the benefits of the conversion potential.</i></p> <p><i>Instituting a process of bulk conversions through AT&amp;T's proposed language is mutually beneficial. Verizon's own Guidelines for Conversion specifically recognizes the value of such a bulk conversion process, and outline a five-step process to allow for such a conversion. See Verizon-North and Verizon-South Guidelines for Converting Special Access to Loop-Transport Combinations, Version 1.1, released April 2001. Further,</i></p>	<p><i>11.9 Conversion of Live Telephone Exchange Service to Analog 2W Loops</i></p> <p><i>The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to AT&amp;T Telephone Exchange Services provisioned over Analog 2W unbundled Local Loops ("Analog 2W Loop"s) to be provided by Verizon to AT&amp;T.</i></p> <p><i>11.9.1 Coordinated cutover charges, including but not limited to outside dispatch charges, where applicable, shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops as set forth in Exhibit A. If AT&amp;T does not request a coordinated cutover, Verizon will process AT&amp;T's order as a new installation subject to applicable standard provisioning intervals.</i></p> <p><i>11.9.2 AT&amp;T shall request Analog 2W Loops for coordinated cutover from Verizon by delivering to Verizon a valid Local Service Request ("LSR") including, without limitation, in accordance with the</i></p>	AT&T Subissue III-7-b requests that the Commission require Verizon to implement a specific ordering process for AT&T to place bulk orders for the conversion of services to UNEs or UNE combinations. Verizon will not develop special ordering processes for AT&T since it has developed processes that apply industry-wide to facilitate the ordering by all CLECs for conversions of special access services to loop-transport combinations. Verizon has posted conversion guidelines on its website.

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			<p>Verizon has made a commitment to seek to develop methods and procedures that remove any requirement to submit new service orders to finalize such conversions. <i>Id.</i> Therefore, it is not unreasonable for Verizon to be obligated to support a project-oriented (i.e., a bulk facility-oriented conversion) as well as an individual combination oriented (i.e., customer –specific) conversion process. The value of being able to convert services to UNE combinations in a reasonably standardized manner is beyond dispute.</p> <p>Verizon objects to AT&amp;T's language that obligates Verizon to support a bulk conversion process (§ 11.13.4) because Verizon's ordering process is "based on industry guidelines", that it will not develop "a separate ordering process for AT&amp;T", and "that Verizon does not accept multiple requests in a single notice." Verizon Response to AT&amp;T, Issue 179, at 91. However, it is clear that the only extent to which the process is an "industry standard" is that Verizon unilaterally made it applicable to all carriers operating in Virginia. See Verizon Response to AT&amp;T DR 3-6(B) &amp; (C), Attachment 1. It is apparent that no industry input was sought. With respect to whether or not its process is based on industry guidelines, Verizon states in its response to AT&amp;T DR 3-6 that it</p>	<p>terms of Section 11.6. AT&amp;T shall designate the requested date and time for conversion on the LSR ("Scheduled Conversion Time") subject to Verizon standard provisioning intervals, as may be revised from time to time. Subject to the immediately preceding sentence, Verizon agrees to accept from AT&amp;T the Scheduled Conversion Time, provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force is not available, AT&amp;T and Verizon shall mutually agree on a New Conversion Time, as defined below. Within three (3) business days of Verizon's receipt of a valid LSR, except as otherwise required by Applicable Law, Verizon shall provide AT&amp;T the scheduled due date by which the Analog 2W Loops covered by such LSR will be converted.</p> <p><b>11.9.3</b> AT&amp;T shall provide dial tone at the AT&amp;T Collocation site prior to the Scheduled Conversion Time such that Verizon may verify dialtone as provided herein. Verizon shall verify dialtone on the loop scheduled to be migrated to AT&amp;T and shall also verify AT&amp;T dialtone from the AT&amp;T Collocation cage. If Verizon is unable to verify such dialtone,</p>	

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			<p>does not assert that its procedures are based either upon ordering formats, or implementation procedures beyond those developed by Verizon for its own use. Verizon's statement regarding refusal to accept multiple requests on the same order is also difficult to square with Verizon's response to AT&amp;T DR 3-6 where Verizon states that "Verizon developed a process whereby CLECs can submit multiple circuit for conversion on one data template spreadsheet."</p> <p>AT&amp;T is willing to work within the constructs of the existing conversion process dictated by Verizon, in its Verizon-North and Verizon-South Guidelines for Converting Special Access Services to Loop-Transport Combinations, and the similar process employed in New York. However, some modifications are required. First, AT&amp;T objects to Verizon's unilateral imposition of its own interconnection agreement language as a pre-requisite for implementing a conversion required by the law. Verizon seeks to have AT&amp;T abdicate its right to negotiation, and ultimately arbitration, and instead accept its own, one-sided interconnection agreement language.</p> <p>Second, the billing change associated with the conversion should become effective on the date that all required</p>	<p>Verizon shall take appropriate steps to address the problem, including promptly notifying AT&amp;T, if required.</p> <p><b>11.9.4</b> Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New Conversion Time may not be rescheduled more than one (1) time in a business day, and any two New Conversion Times for a particular Analog 2W Loops shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.</p> <p><b>11.9.4.1</b> If the New Conversion Time is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:</p> <p>(i) If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be waived,</p>	

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			<p>information is submitted by AT&amp;T. In the vast majority of cases, no physical work should be required. In the rare case where AT&amp;T requests a conversion requiring physical work, AT&amp;T's proposed language provides for pro-ration of the changes based upon the earlier of when Verizon committed to complete the work, or when the work was actually completed. This provides an incentive to Verizon to meet its deadlines and does not impose any additional penalties for missing its commitment. As discussed previously (see Subissue III.7.A), Verizon provides no realistic examples of when a legitimate need to disconnect elements might occur. Tying the date of billing change to any other date or consideration simply opens the conversion process to "games playing" where Verizon has every incentive to delay.</p> <p>Verizon claims AT&amp;T's language "ignores the reality of the time to process orders." <i>Id.</i> at 92 Issue 180. But it is the effective date of the billing change that is the issue, not the time required to process orders. Disregarding that the Verizon process apparently does not require an order, the actual completion date of the order does not, by necessity, impact the date upon which a billing change occurs. Verizon routinely defers working customer disconnect orders on their due date (as a workload</p>	<p>upon request from AT&amp;T; and</p> <p>(ii) If AT&amp;T requests to reschedule outside the one (1) hour time frame above, AT&amp;T shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.</p> <p><b>11.9.5</b> If AT&amp;T is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and AT&amp;T will reschedule and, upon request from AT&amp;T, Verizon will waive the Analog 2W Loop Service Order Charge for the original Scheduled Conversion Time.</p> <p><b>11.9.6</b> The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the Analog 2W Loop to AT&amp;T is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a negotiated interval.</p> <p><b>11.9.7</b> Conversions involving LNP</p>	

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			<p>management tool) but nevertheless renders billing based on the scheduled completion date of the order.</p> <p>The possibility that the order may be changed, cancelled or supplemented carries no weight, particularly given that no order is purportedly required. The only reason a change or supplement might occur is when physical work was requested. When physical work is involved and an order supplement is submitted, the committed due date changes.</p> <p>In response to AT&amp;T DR 3-20, Verizon states it "gives an effective bill date for special access conversions of 30 calendar days or less. Verizon Response to AT&amp;T Data Request 3-20. If the conversion is not technically completed during that time, the pricing is applied retroactively to the effective bill date." This commitment, while inadequate, also demonstrates that there is no necessary linkage between order completions and effective dates of billing changes.</p>	<p>will be completed according to North American Numbering Council ("NANC") standards, via the regional Number Portability Administration Center ("NPAC").</p> <p><b>11.9.8</b> If AT&amp;T requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.</p> <p><b>11.9.9</b> After receiving notification of completion of the hot cut by Verizon, AT&amp;T will confirm operation of the loop[s]. In the event the loop[s] is not functional, AT&amp;T may submit the necessary trouble ticket[s] to initiate a request for repair.</p> <p><b>11.9.10</b> If AT&amp;T and Verizon cannot isolate and fix the problem, AT&amp;T may request that the Customer be restored to service on the Verizon network. Such restoration shall occur within a commercially reasonable time period.</p>	
III-7-c	Should AT&T be bound by termination liability provisions in Verizon's contracts or tariffs if it converts a service purchased pursuant to such contract or tariff to UNEs or UNE Combinations?	Section 11 sets forth the contract terms and conditions necessary to support AT&T's position on the issues.	Verizon should implement a process that enables AT&T to undertake a bulk conversion of special access to UNE configurations. However, Verizon has appears to have no interest in expediting special access reconfigurations to UNE pricing, because the longer the facilities and		AT&T Subissue III-7-c requests the Commission to exempt AT&T from termination liability provisions in Verizon's contracts or tariffs if it converts a service pursuant to such a contract or tariff to UNEs or UNE combinations. Verizon objects to this proposal and the Commission has

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